

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TERRANCE EDWARDS,

Plaintiff,

v.

ORDER

08-cv-352-bbc

JEREMY STANIEC, JOE BEAHM,
TRAVIS CAUL, J. HAWKINS, Sgt.
and ERIC KRUEGER,

Defendants.

Now before the court is a motion for reconsideration filed by plaintiff Terrance Edwards, in which he argues that it was error to grant defendants' motion for summary judgment as to defendant Greff. Plaintiff contends that his sworn complaint includes allegations sufficient to establish that defendant Greff failed to intervene when other defendants used excessive force against him.

Plaintiff's motion will be denied. Plaintiff did not cite his complaint at summary judgment, only a two-page excerpt from his complaint that did not even mention defendant Greff. At any rate, even if plaintiff had properly cited his full sworn complaint in opposition to defendants' motion for summary judgment, the allegations regarding defendant Greff were

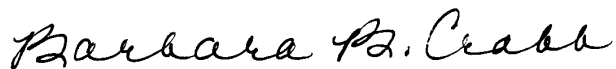
not sufficiently specific to survive summary judgment, which requires that plaintiff set forth “specific facts showing a genuine issue for trial.” In this case, plaintiff would have to show that defendant Greff failed to intervene “in reckless disregard” of plaintiff’s right to be free from excessive use of force against him. Miller v. Smith, 220 F.3d 491, 495 (7th Cir. 2000). The complaint does not explain what defendant Greff was doing during defendants’ use of force or describe the duration of the use of force. The complaint is too vague to allow a reasonable jury to find that defendant Greff had a “realistic opportunity to step forward and prevent” the allegedly excessive force, which is what plaintiff would have to establish to prevail on his failure to intervene claim. Miller, 220 F.3d at 495.

ORDER

IT IS ORDERED that plaintiff’s motion for reconsideration, dkt. #78, is DENIED.

Entered this 7th day of July, 2009.

BY THE COURT:

Handwritten signature of Barbara B. Crabb in cursive script.

BARBARA B. CRABB
District Judge